



# INDUSTRY CIRCULAR

DEPARTMENT OF  
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

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TAX EXEMPT SALES OF TOBACCO PRODUCTS TO  
PERSONS CROSSING THE UNITED STATES BORDER  
INTO CANADA OR MEXICO

Proprietors of Tobacco Export Warehouses and Others  
Concerned:

80-5 ← Purpose. This circular notifies industry members of an ATF Procedure which will be published in the next issue of the Alcohol, Tobacco and Firearms Bulletin. The procedure will read substantially as follows:

Section 1. PURPOSE.

This ATF Procedure establishes guidelines which tobacco export warehouse proprietors may follow in recording sales of tobacco products to persons crossing the United States border into Canada or Mexico when individual sales to such persons do not exceed 1,000 cigarettes or 1,000 cigars. These guidelines will become effective February 16, 1981.

Sec. 2 BACKGROUND.

Section 5704, Title 26 of the United States Code, provides that an export warehouse proprietor may remove tobacco articles, without payment of tax, for consumption beyond the jurisdiction of the internal revenue laws of the United States. Regulations in 27 CFR 290.198 require that the export warehouse proprietor prepare Form 2150, Notice of Removal of Cigars, Cigarettes, Cigarette Papers, or Cigarette Tubes, for each shipment removed from his warehouse.

Revenue Procedure 72-27 provided an alternative to this requirement by authorizing the removals to be documented on sales slips with the daily summarization of the individual sales slips on a Form 2150, when the quantities purchased by an individual for his personal use did not exceed 400 cigarettes or 100 cigars in any calendar week, or when purchases did not exceed the quantity the purchaser was legally entitled to take into the country being entered without payment of duty or tax, whichever quantity was greater. All other transactions were considered to be commercial

exportations and were subject to the provisions of 27 CFR 290.198, 290.199 and 290.205.

ATF Procedure 76-1 extended the authority to use sales slips as the basic documentation for smaller commercial transactions, by providing for documentation of the individual transactions on sales slips, and the consolidation of these transactions on a Form 2150, when individual sales did not exceed 4,500 cigarettes or 1,000 cigars. This extension of the authorized use of sales slips to document small commercial transactions was made at the request of several export warehouse operators, who said it would greatly reduce their paperwork, and at the same time facilitate Customs' certification of the transactions.

However, since ATF Procedure 76-1 was issued, the Bureau has revised the regulations in 27 CFR Part 290 to authorize Customs to require landing certificates for exportations to contiguous countries. (T.D. ATF-52, 43 F.R. 59286, December 19, 1978). This change was made because it was found that cigarettes which were ostensibly being entered into Mexico were in fact being retained in or returned to the United States. The United States Customs Service simultaneously changed its policy to require landing certificates for commercial exportations.

In order to combat abuses of the personal-use exportation privilege, Customs published Treasury Decision 79-1 (43 F.R. 59288, December 19, 1978), setting forth this change in policy regarding those exportations. Customs determined that 5 cartons of cigarettes (1,000 cigarettes) are a quantity of cigarettes appropriate for normal personal use. Accordingly, proprietors of export warehouses along the United States-Mexican border were required to present landing certificates to confirm that purchases of more than 5 cartons of cigarettes (1,000 cigarettes) are presented or declared through Mexican customs.

### Sec. 3 CHANGES IN PROCEDURES.

In recognition of these changes and clarifications, ATF has concluded that it is no longer appropriate for official documentation of commercial exportations (more than 1,000 cigarettes and 1,000 cigars) to be made on sales slips. Such documentation of commercial transactions causes administrative difficulties for both ATF and Customs.

Accordingly, the procedure supersedes ATF Procedure 76-1 and discontinues the authority of export warehouse proprietors to officially document commercial exportations of tobacco products (more than 1,000 cigarettes and 1,000 cigars) on sales slips. Effective February 16, 1981, all of these commercial exportations must be properly documented on ATF Form 2150 as required by the regulations in 27 CFR 290.198, 290.199, and 290.205.

Within the newly prescribed limits for small exportations of tobacco products, the new ATF Procedure continues in effect essentially the same procedural requirements for documentation of individual small transactions by sales slips consolidated onto a single Form 2150. However, it provides alternative points for obtaining the purchaser's signature and recording license plate information on a sales slip.

All previous authorizations to operate under the procedures set out in Revenue Procedure 72-27 or Procedure 76-1 will be cancelled effective February 16, 1981. Any previously approved alternate procedures other than those specifically based on either Revenue Procedure 72-27 or ATF Procedure 76-1 will continue in effect to the extent they apply to non-commercial type transactions (i.e. the sale of not more than 1,000 cigarettes or 1,000 cigars) and have not otherwise been terminated. Export warehouse proprietors are authorized to use the sales slip form of documentation for personal-use quantities (not more than 1,000 cigarettes and 1,000 cigars) as set forth in this procedure. No specific approval from ATF is required as long as these procedures are followed exactly.

#### Sec. 4 ACCEPTABLE PROCEDURES.

.01 Limitations of Procedures. A daily summarized Form 2150 may be prepared for reporting removals of cigars or cigarettes for exportation by individuals entering Canada or Mexico with not more than 1,000 cigarettes or not more than 1,000 cigars in any calendar day. The procedures for exportation in 27 CFR 290.198, 290.199 and 290.205 shall be followed, with a separate Form 2150 for each exportation, when the quantities exported are more than 1,000 cigarettes or more than 1,000 cigars in a calendar day. Any sale to an individual involving more than 1,000 cigarettes or 1,000 cigars per day must be documented on an

individual Form 2150. If more than one sale is made to an individual during a day, the total of the sales that day are considered to be a single transaction.

An export warehouse proprietor may use multiple sales slips or invoices for recording components of a total sale involving 1,000 or more cigarettes or cigars. However, the records and Customs certification for ATF purposes must be documented on an individual Form 2150 showing the total number of cigarettes and cigars involved in the transaction.

For example, if an individual on a given day makes three separate purchases of 1,000 cigarettes (5 cartons) each from an export warehouse, the export warehouse proprietor may record the first sale of 1,000 cigarettes on a sales slip, and that sale may be reported on the daily summarized Form 2150. The second and third sales must be recorded (A) on two separate Forms 2150 showing removal of 1,000 cigarettes each, or, alternatively, (B) the second and third sales may be reported on a single Form 2150 showing the removal of 2,000 cigarettes. The U.S. Customs Service will require the export warehouse proprietor to present a landing certificate with any Form 2150 submitted under (A) or (B).

.02 Preparation of Sales Slips. The export warehouse proprietor shall prepare a separate sales slip (original and 3 copies) for each daily sale of tobacco products totaling not more than 1,000 cigars or 1,000 cigarettes. The minimum information that must be included on the sales slip is (1) a preprinted serial number, (2) the name and address of the purchaser, (3) the date of purchase, (4) a list of the products sold, (5) license plate identification of the vehicle in which the cigarettes and cigars are to be transported to Canada and Mexico, (6) signature of receipt by purchaser, (7) a space for certification of export by Customs, and (8) a conspicuous statement that the products are sold exempt from U.S. Federal tax for consumption outside the United States and that if such products are returned to the United States they must be declared to Customs and are then subject to duty or tax.

Item 5, the license plate identification, must be completed in all instances except those where the purchaser will carry the tobacco products over the

border by foot. Item 5 is to be completed by the proprietor at the time of delivery of the articles to the purchaser. Alternatively, the license plate of the vehicle in Item 5 may be recorded on the sales slip at the point where the order is given. When license plate identification is recorded on sales slips at the point where the order is taken, the proprietor is responsible for verifying, and if necessary, correcting the license plate information at the point where the tobacco products are delivered to the purchaser. The proprietor is also responsible for assuring with reasonable certainty (by examining passports, drivers licenses, border crossing cards, etc.) that the purchaser's name and address, and all other information on the sales slip, are correct and complete.

03. Distribution and Certification of Sales Slips. At the time of sale, the export warehouse proprietor shall furnish the purchaser with two copies of the sales slip. In addition, he shall attach one copy of the sales slip to the shipment of the tobacco products. The remaining copy will be retained by the proprietor at the export warehouse until the signed copy is returned to him after delivery of the tobacco products. When the shipment is delivered to the purchaser at the border, the purchaser will sign both the copy he surrenders to obtain delivery of the articles and the copy that will be furnished to the Customs officer who supervises the exportation. Alternatively, the purchaser may at the point where the order is given, sign an original and one copy of the sales slip, but no other copies; take the signed original and signed copy to the border crossing point; give them both to an employee of the export warehouse at the time the products and a copy of the sales slip are delivered to the purchaser.

The export warehouse employee making delivery of the tobacco products will visually determine the transporting vehicle's license number and the State, Province or country issuing such license and will record (or verify if recorded at the point of sale) the information on the two signed copies of the sales slip. The customs officer will receive one of the signed copies, as noted above, and the proprietor will retain the other as part of his records.

.04 Preparation and Disposition of Daily

Summarized Form 2150. At the close of each business day a consolidated Form 2150 will be prepared, in triplicate. The form shall be marked to show that it is a consolidated form, and it shall include all the information called for by the form except items 6, 7, 8, 9, and columns (b) and (e) of item 12. At item 11 there shall be entered the words "as shown on individual sales slips," and the serial numbers of such individual sales slips shall be entered in column (a) of item 12. All copies will be submitted to the Customs officer at the border for execution of the certificate of export. After certification, the Customs officer will retain a copy and return the original and remaining copy to the warehouse proprietor. The proprietor will retain as part of his records the copy of the consolidated Form 2150 and the receipted copies of the related sales slips. He will transmit the original of the consolidated Form 2150 to the appropriate Regional Regulatory Administrator, Bureau of Alcohol, Tobacco and Firearms, no later than the close of the business day following the day the removals were made.

#### Sec. 5 ALTERNATE PROCEDURES.

The export warehouse proprietor may not use procedures other than those in 27 CFR Part 290 or as set forth in the ATF Procedure unless they are approved by the Director, Bureau of Alcohol, Tobacco and Firearms, as provided in 27 CFR 290.72 relating to the authorizations for alternate methods or procedures. All previous authorizations for alternate methods or procedures under Revenue Procedure 72-27 and ATF Procedure 76-1 are terminated effective February 16, 1981.

#### Sec. 6 EFFECT ON OTHER DOCUMENTS.

ATF Proc. 76-1, ATF C.B. 1976, 121, is hereby superseded effective February 16, 1981.

#### Sec. 7 INQUIRIES.

Inquiries concerning this ATF Procedure should refer to its number and be addressed to the office of the appropriate Regional Regulatory Administrator, Bureau of Alcohol, Tobacco and Firearms.

  
Director